

DETAILED ACTION

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Maneesh Gulati on March 11, 2010.

In the claims:

55. (Currently amended) A method for preparing lysine by cultivating a genetically modified *Corynebacterium glutamicum* comprising

(1) a nucleic acid molecule having promoter activity, wherein the nucleic acid molecule ~~consists of a nucleic acid molecule comprising~~ comprises the nucleotide sequence of SEQ ID NO:1; or

(2) an expression unit comprising either

a) the nucleic acid molecule of any 1 wherein said nucleic acid molecule is functionally linked to a nucleic acid sequence which ensures the translation of ribonucleic acids, or

b) the nucleic acid molecule of SEQ ID NO:2;

wherein the nucleic acid molecule of (1) or the expression unit of (2) alters, regulates or causes the expression of at least one endogenous gene, compared with the wild type;

and wherein the at least one endogenous gene is selected from the group consisting of nucleic acids encoding an aspartate kinase, nucleic acids encoding an aspartate-semialdehyde dehydrogenase, nucleic acids encoding a diaminopimelate dehydrogenase, nucleic acids encoding a diaminopimelate decarboxylase, nucleic acids encoding a dihydroadipic acid synthetase, nucleic acids encoding a dihydroadipic acid reductase, nucleic acids encoding a glyceraldehyde-3-phosphate dehydrogenase, nucleic acids encoding a 3-phosphoglycerate kinase, nucleic acids encoding a pyruvate

carboxylase, nucleic acids encoding a triosephosphate isomerase, nucleic acids encoding a transcriptional regulator LuxR, nucleic acids encoding a transcriptional regulator LysR1, nucleic acids encoding a transcriptional regulator LysR2, nucleic acids encoding a malate-quinone oxidoreductase, nucleic acids encoding a glucose-6-phosphate dehydrogenase, nucleic acids encoding a 6-phosphogluconate dehydrogenase, nucleic acids encoding a transketolase, nucleic acids encoding a transaldolase, nucleic acids encoding a lysine exporter, nucleic acids encoding a biotin ligase, nucleic acids encoding an arginyl-tRNA synthetase, nucleic acids encoding a phosphoenolpyruvate carboxylase, nucleic acids encoding a fructose-1,6-bisphosphatase, nucleic acids encoding a protein OpcA, nucleic acids encoding a 1-phosphofructokinase and nucleic acids encoding a 6-phosphofructokinase.

The following is an examiner's statement of reasons for allowance: The closest prior art references are WO02/40679 and US 2002/0197605. WO02/40679 generically teaches a method for preparing lysine. However, it does not teach using an EF-Tu promoter for that purpose. US 2002/0197605 teaches SEQ ID NO: 1 embedded in a genomic sequence at positions 526177-526375, however, there was no recognition of the sequence being a promoter. EF-Tu promoters from *C. glutamicum* were not well known at the time, and there is no rationale for using one in the method taught by WO02/40679.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele K. Joike whose telephone number is (571)272-5915. The examiner can normally be reached on M-F, 10:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low can be reached on (571)272-0951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michele K. Joike/
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